

ORDINANCE NO. 2020-02-002

AN ORDINANCE OF THE CITY OF BELLINGHAM ESTABLISHING INTERIM HOUSING REGULATIONS BY CREATING A NEW BELLINGHAM MUNICIPAL CODE CHAPTER 20.15A, INTERIM HOUSING, AND AMENDING OTHER CHAPTERS IN BELLINGHAM MUNICIPAL CODE TITLES 20 AND 21.

WHEREAS, homelessness continues to be a local, regional and national challenge due to many social and economic factors; and

WHEREAS, this crisis necessitates adoption of regulations for interim housing, which provides emergency and transitional shelter for people experiencing homelessness; and

WHEREAS, the Bellingham Municipal Code (BMC) does not currently include regulations for interim housing; and

WHEREAS, RCW 19.27.042 authorizes cities to exempt from state building code requirements buildings whose character of use or occupancy has been changed in order to provide housing for the homeless for up to five years, as long as the code deficiencies do not pose a threat to human life, health or safety; and

WHEREAS, a separate ordinance (Ordinance No. 2018-10-019) for temporary shelters was approved on October 22, 2018, by the City Council; and

WHEREAS, as required by RCW 36.70A.106, notice of the City's intent to adopt the proposed amendments was sent to the Department of Commerce on January 18, 2019; and

WHEREAS, the responsible official reviewed the proposed amendments under the procedures of the State Environmental Policy Act and issued a non-project Determination of Non-Significance on January 11, 2019; and

WHEREAS, the Planning Commission held meetings on this topic on March 22, 2018; April 26, 2018; June 7, 2018; September 20, 2018; and October 18, 2018, all of which included opportunities for public testimony; and

WHEREAS, after mailed and published notice as required by BMC 21.10.150, the Planning Commission held a public hearing on the proposed amendments on January 31, 2019, and a follow-up work session on November 7, 2019; and

WHEREAS, the Planning Commission determined that the proposed amendments comply with and will implement the goals and policies of the 2016 Bellingham Comprehensive Plan; and

WHEREAS, the Planning Commission considered the staff report and public comments and thereafter made Findings of Fact, Conclusions and Recommendations for approval of the proposed amendments with a 6-0 vote on November 7, 2019; and

WHEREAS, after mailed and published notice as required by BMC 21.10.150, the City Council held a public hearing on the proposed amendments on January 27, 2020; and

WHEREAS, the City Council has considered the recommendation of the Planning Commission, the staff report, other meeting materials, and all public comments and hereby adopts the Findings of Fact, Conclusions and Recommendations of the Planning Commission; and

WHEREAS, the City Council finds that the proposed amendments are consistent with the Growth Management Act, the Bellingham Municipal Code, and the 2016 Bellingham Comprehensive Plan.

NOW, THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. BMC 20.08.020, Specific definitions, is amended as follows:

“Interim housing” means a facility that:

- a. Includes overnight sleeping accommodations for those who are homeless-on-entry, whether generally or for specific populations (e.g. youth, those with mental health challenges, families with young children, and seniors);
- b. Is located in a building or other permanent structure;
- c. Is of longer operational duration than a temporary shelter;
- d. Hosts residents on a daily, weekly, monthly, or multiple month basis; and
- e. Includes a sponsor and managing agency.

“Managing agency” means an organization identified as the manager of a temporary ~~or long-term~~ shelter or interim housing facility that has the capacity to organize and manage a shelter or facility. Managing agencies are limited to religious organizations, nonprofit agencies and governmental entities. A group of homeless residents is not considered a managing agency. A managing agency may be the same entity as the sponsor.

“Sponsor” means an organization that:

- a. Invites a temporary homeless shelter or interim housing facility to reside on land they own or lease; and
- b. Is a State of Washington registered not-for-profit corporation and federally recognized tax exempt 501(c)(3) organization or a governmental entity; or
- c. Is recognized by the Internal Revenue Service as exempt from federal income taxes as a religious organization that expresses its religious mission, in part, by organizing living accommodations for the homeless.

[ALL OTHER DEFINITIONS IN THIS SECTION REMAIN UNCHANGED]

Section 2. BMC Title 20, Land Development, is amended to include a new chapter, BMC 20.15A, "Interim Housing," as shown in **Exhibit A**.

Section 3. BMC 20.16.020, Conditional uses, is amended as follows:

A. through G. [NO CHANGE]

H. 1. Interim Housing.

- a. Definition. See "Interim Housing" definition in BMC 20.08.020.
- b. Conditional per the requirements outlined in BMC 20.15A, Interim Housing.
- c. Special Requirements. See BMC 20.15A for requirements for all interim housing.

~~H. I.~~ 1. Medical Care Facility.

~~I. J.~~ 1. Neighborhood Club/Activity Center.

~~J. K.~~ 1. Parking Facilities (Nonretail).

~~K. L.~~ 1. Recreational Vehicle Parks and Campgrounds.

~~L. M.~~ 1. School.

[NO OTHER CHANGES TO THIS SECTION]

Section 4. BMC 20.30.030, permitted uses for Residential Single Development, is amended as follows:

A. Uses Permitted Outright. No building or land shall be used within an area designated residential single, except as follows:

1. through 12. [NO CHANGE]
13. Certain interim housing, per BMC 20.15A.

B. Conditional Uses. The following uses may be allowed if approval can be obtained based upon standards and requirements for conditional uses as specified in Chapter 20.16 BMC.

1. through 18. [NO CHANGE]
19. Certain interim housing, per BMC 20.15A.

Section 5. BMC 20.32.030, permitted uses for Residential Multi Development, is amended as follows:

A. Uses Permitted Outright. No building or land shall be used within areas designated RM except as enumerated below corresponding to the applicable use qualifier:

Use Qualifier	Permitted Use
Duplex	1. through 13. [NO CHANGE] 14. <u>Certain interim housing, per BMC 20.15A.</u>
Multiple	[NO CHANGE]
Planned	[NO CHANGE]

B. Conditional Uses. The following uses may be allowed if approval can be obtained, based upon standards and requirements for conditional uses as specified in Chapter 20.16 BMC:

- 1. through 22. [NO CHANGE]
- 23. Certain interim housing, per BMC 20.15A.

Section 6. BMC 20.33, Commercial Development, is amended as follows:

Table 20.33.030

	Planned Commercial	Neighborhood Commercial	Auto	Waterfront (1)
P = Permitted C = Conditional N = Not Permitted				
Residential				
<u>Certain Interim Housing, per BMC 20.15A</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>
[NO ADDITIONAL CHANGES TO THIS TABLE]				

Section 7. BMC 20.35.065, permitted uses for the Old town overlay district, is amended as follows:

A. The following uses are permitted:

- 1. through 25. [NO CHANGE]
- 26. Uses similar to the above. Certain interim housing, per BMC 20.15A.

27. Uses similar to the above.

B. [NO CHANGE]

C. Uses Permitted by Conditional Use Permit. The following uses may be allowed if approval can be obtained, based upon standards and requirements for conditional uses as specified in Chapter 20.16 BMC.

1. through 3. [NO CHANGE]

4. Certain interim housing, per BMC 20.15A.

[NO OTHER CHANGES TO THIS SECTION]

Section 8. BMC 20.36.030, permitted uses for Industrial Development, is amended as follows:

A. Uses Permitted Outright. No building or land shall be used within an area designated with an industrial general use type except as permitted below, corresponding to the use qualifier designated for such property.

The following uses shall be permitted outright; corresponding to the designated use qualifier.

Use Qualifier	Permitted Use
Light	1. through 18. [NO CHANGE] <u>19. Certain interim housing, per BMC 20.15A.</u>
Use Qualifier	Permitted Use
Heavy	1. through 12. [NO CHANGE] <u>13. Certain interim housing, per BMC 20.15A.</u>
Use Qualifier	Permitted Use
Marine	1. through 9. [NO CHANGE] <u>10. Certain interim housing, per BMC 20.15A.</u>

Section 9. BMC 20.37.120, permitted uses for Samish Way urban village, is amended as follows:

Table 20.37.120 – Permitted Uses

P = Permitted # = Permitted with limitations C = Conditional Use N = Not allowed					
Land Use Classification	Area				
	Commercial Core	Commercial Approach	Commercial Transition 1 and 2	Residential Transition 1	Residential Transition 2
1. through 43. [NO CHANGE]					
<u>44. Certain interim housing, per BMC 20.15A.</u>	<u>P, C</u>	<u>P, C</u>	<u>P, C</u>	<u>P, C</u>	<u>P, C</u>

Section 10. BMC 20.37.220, permitted uses for Fountain district urban village, is amended as follows:

Table 20.37.220 – Permitted Uses

P = Permitted # = Permitted with limitations C = Conditional Use N = Not allowed				
Land Use Classification	Area			
	Commercial Core	Commercial Transition	Residential Transition 1	Residential Transition 2
1. through 47. [NO CHANGE]				
<u>48. Certain interim housing, per BMC 20.15A.</u>	<u>P, C</u>	<u>P, C</u>	<u>P, C</u>	<u>P, C</u>

Section 11. BMC 20.37.320, permitted uses for Fairhaven urban village, is amended as follows:

Table 20.37.320 – Permitted Uses									
	P =	(#) = See	C = Conditional	N = Not					
	Permitted	Notes	Use	allowed					
LAND USE CLASSIFICATION	AREA								
	CC(2)	RT-1 and RT-2	RT-3	RT-4	I-1(1)	I-2(1)	I-3(1)	P-1 and P-3	P-2
A. Residential									
1. through 14. [NO CHANGE]									
<u>15. Certain interim housing, per BMC 20.15A.</u>	<u>P, C</u>	<u>P, C</u>	<u>P, C</u>	<u>P, C</u>	<u>P, C</u>	<u>P, C</u>	<u>P, C</u>	<u>P, C</u>	<u>P, C</u>

Section 12. BMC 20.37.420, permitted uses for Waterfront district urban village, is amended as follows:

Table 20.37.420-A Permitted Uses			
P = Permitted (#) = See Notes C = Conditional N = Not allowed			
LAND USE CLASSIFICATION	Area		
	Industrial Mixed- Use	Commercial Mixed-Use	Institutional Mixed-Use
A. RESIDENTIAL			
1. through 5. [NO CHANGE]			
<u>6. Certain interim housing, per BMC 20.15A.</u>	<u>P, C</u>	<u>P, C</u>	<u>P, C</u>

Section 13. BMC 20.37.520, permitted uses for the Downtown district urban village, is amended as follows:

Table 20.37.520 – Permitted Uses

P = Permitted C = Conditional Use N = Not allowed (#) = See Notes When multiple symbols and notes appear in a box such as P(2) or (4), C, they are interpreted as (P) Permitted (2) when located in a main building(s) on a site existing as of September 23, 2014 OR (4) on corner lots; (C) conditional elsewhere.				
LAND USE CLASSIFICATION	AREA			
	CC (1) CT (1)	RT-1	RT-2	IT
A. Residential				
1. through 12. [NO CHANGE]				
<u>13. Certain interim housing, per BMC 20.15A.</u>	<u>P, C</u>	<u>P, C</u>	<u>P, C</u>	<u>P, C</u>

Section 14. BMC 20.38.050, standards for Planned Development, is amended as follows:

A. [NO CHANGE]

B. Planned Residential.

1. For all land designated residential, the following standards shall apply.

2. Range of Uses Possible. Any of the following uses may be permitted in a planned proposal within a residential general use type designation; provided, that any of such uses shall not be permitted where prohibited within the applicable neighborhood plan. Certain uses may also be excluded from a particular planned residential area if such use(s) are found by the planning director to be incompatible with the surrounding area or unsuitable to the particular site. The final decision shall set forth the uses permitted for the subject property.

a. through p. [NO CHANGE]

q. Certain interim housing, per BMC 20.15A.

3. through 15. [NO CHANGE]

C. [NO CHANGE]

D. Planned Industrial.

1. For all land designated industrial, the following standards shall apply.

2. Range of Uses Possible. Any of the following uses may be permitted in a planned proposal within an industrial general use type designation; provided, that any of such uses shall not be permitted where prohibited within the applicable neighborhood plan. Certain uses may also be excluded from a particular planned industrial area by the planning director if such use(s) are found to be incompatible with the surrounding area or unsuitable to the particular site. The final decision shall set forth the uses permitted for the subject property.

a. through p. [NO CHANGE]

q. Certain interim housing, per BMC 20.15A.

Section 15. BMC 20.42.050, permitted uses for land owned by the City of Bellingham, Whatcom County, the Port of Bellingham, the Bellingham Housing Authority, or the Bellingham School District and designated public, is amended as follows:

A. Permitted Uses. Use of public land must be within the range of the use qualifiers as defined herein.

1. Use Qualifier – Range of Use.

a. through e. [NO CHANGE]

f. Interim Housing. See “Interim Housing” definition in BMC 20.08.020.

~~f. g.~~ Open Space. To preserve land in its “natural state” with limited recreational activities such as trails and benches.

~~g. h.~~ Parks. To provide for a diverse range of leisure and/or recreational activities. The term shall include accessory buildings and uses but is not intended for activities which normally attract large numbers of spectators.

~~h. i.~~ Recreation. To provide for active recreational facilities including accessory buildings and uses where a large number of spectators may be anticipated. The term may include uses which cater to the public such as eating places.

i. j. School. To provide a diverse range of educational opportunities. Accessory buildings and uses including recreational activities are included in the term.

j. k. Utilities. To provide for a diverse range of basic governmental facilities including equipment storage and repair facilities (central shops), transit garages and terminals, sewage and water treatment centers, water reservoir, stormwater retention areas, parking garages, gravel pits and similar uses.

Section 16. BMC 21.10.040, Types of land use decisions, is amended as follows:

A. Land use decisions are classified into seven review process types based on who makes the decision, the amount of discretion exercised by the decision maker and the amount and type of public input sought.

B. Type I. A Type I review process is an administrative review and decision by the director. It is exempt from notice requirements. If a Type I decision is not categorically exempt from SEPA and the SEPA review has not been completed with a prior permit, the Type II process shall be used. Appeals of Type I decisions are decided by the hearing examiner unless the rules for a specific permit or decision specify that no administrative appeal is available. The following are Type I decisions when the application does not require a SEPA threshold decision:

1. through 24. [NO CHANGE]

25. Interim housing, per BMC 20.15A;

25-26. Extensions of a short plat, preliminary plat and binding site plans;

26-27. Modifications to an approved short subdivision, preliminary plat, and general binding site plan that do not require a Type II process;

27-28. Binding site plan that does not require a Type II process;

28-29. Administrative departure pursuant to BMC 23.48.030; and

29-30. All other decisions that specify use of the Type I process.

C. Type II. A Type II review process is an administrative review and decision by the director. Public notice is required. Appeals of Type II decisions are decided by the hearing examiner. The following are Type II decisions:

1. through 15. [NO CHANGE]

16. ~~Modifications to an approved preliminary plat pursuant to BMC 23.16.090(B)~~ Interim housing, per BMC 20.15A; and

~~17. Type I decisions that require a SEPA threshold decision and all other decisions specifying a Type II process. Modifications to an approved preliminary plat pursuant to BMC 23.16.090(B); and~~

~~18. Type I decisions that require a SEPA threshold decision and all other decisions specifying a Type II process.~~

D. Type III-A. A Type III-A review process is a quasi-judicial review and decision made by the hearing examiner that has no administrative appeal, with the exception that a shoreline conditional use decision may be appealed to the State Shoreline Hearings Board. The following are Type III-A decisions:

1. through 9. [NO CHANGE]

10. Cluster short plats of one to four lots without a density bonus if the director requires Process III-A; and

~~11. All other decisions specifying a Type III-A process. Interim housing, per BMC 20.15A; and~~

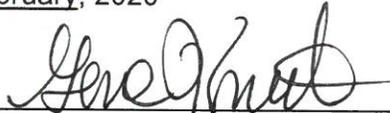
~~12. All other decisions specifying a Type III-A process.~~

E. through J. [NO CHANGE]

Section 17. City administration and the codifiers of this ordinance are authorized to make necessary clerical corrections including, but not limited to, the correction of scrivener's or clerical errors, references, ordinance numbering, section/subsection numbers and any reference thereto.

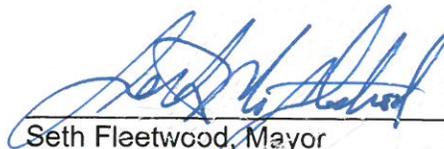
Section 18. The City Council agrees with and adopts the Findings of Fact, Conclusions and Recommendations of the Planning Commission attached as **Exhibit B** and incorporated by reference.

PASSED by the Council this 10th day of February, 2020



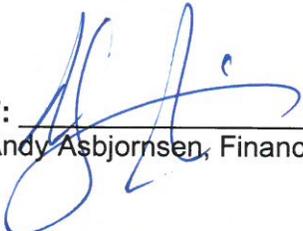
Gene Knutson, Council President

APPROVED by me this 12th day of February, 2020



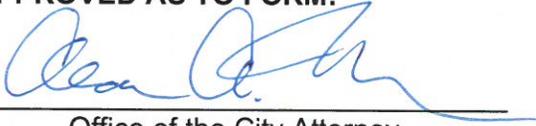
Seth Fleetwood, Mayor

ATTEST:



Andy Asbjornsen, Finance Director

APPROVED AS TO FORM:



Office of the City Attorney

Published: February 14, 2020

BMC Chapter 20.15A Interim housing.

20.15A.010 Purpose.

The purpose of this chapter is to allow and establish a review process for the location, siting, and operation of interim housing in buildings or other permanent structures. These regulations are intended to protect public health and safety by requiring safe operations of the facilities for both the residents and broader community. This chapter does not include regulations for temporary building encampments, temporary tent encampments, temporary safe parking areas, or temporary tiny house encampments for people experiencing homelessness.

20.15A.015 Regulatory approach.

Interim housing encompasses a broad range of facility types and operational characteristics, each with a unique set of facts associated with the location of the facility, operational parameters and number of residents. Similarly, these facilities provide varying service levels that are in direct response to the complexity of the residents' needs. The regulatory approach is to progressively condition these facilities in proportion to the complexity of the residents' needs. Facilities that house residents with less complex needs should be allowed in all residential districts, provided they are of a similar scale as surrounding development. As the complexity of residents' needs increases and/or the size of the facility increases, facilities should be located within districts that allow increasing intensity of use.

20.15A.020 Requirements.

The following requirements apply to interim housing approved under this chapter, unless modified through the permitting process:

A. The following table includes the permit review process and number of people allowed per facility in each General Use Type area:

Interim Housing Type (1)	Residential Single	Residential Transition areas within Urban Villages	Institutional and Residential Multi	Commercial and Urban Villages (3)	Public	Industrial
- Smaller Interim Housing (up to 12 adults)	Type I	Type I	Type I	Type I	Type I	Type I
- Mid-range Interim Housing (between 13 and 40 adults)	Type III-A	Type II	Type II	Type I	Type II	Type I
- Larger Interim Housing (between 41 and 200 adults) (2)	Not Allowed	Type III-A	Type III-A	Type III-A	Type II	Type I

Notes for table:

(1) In determining the maximum number of people allowed at each site, the director or Hearing Examiner shall consider factors such as the size and location of the site, the surrounding land uses, and other contextual factors.

(2) Experienced managing agencies with programs that include multiple facilities serving varying populations of people experiencing homelessness may request a waiver from the maximum number of adults for a larger interim housing facility per section 20.15A.050 of this chapter.

(3) This chapter applies to sites with existing and future Urban Village General Use Type designations.

B. When a site includes more than one General Use Type designation, the more restrictive requirements of this chapter shall apply.

C. In Residential General Use Type areas and residential transition areas within Urban Village General Use Type areas, no more than one adult bed per 250 square feet of floor area is allowed per facility.

D. In Commercial, Industrial, Urban Village, and Public General Use Type areas, no more than one adult bed per 35 square feet of floor area is allowed per facility.

E. In Residential General Use Type areas, residents must be referred off site by providers of housing and services for people experiencing homelessness. Direct intake of residents at the site is not allowed.

F. When located in multi-family buildings, interim housing must be located either within all units, on a single floor, or in a separately delineated segment of the building. This requirement does not apply to multi-family buildings wholly owned or controlled by the sponsor.

G. Interim housing facilities located in existing structures that do not meet building codes at the time of application may be provisionally approved consistent with the requirements of RCW 19.27.042.

H. If provided, exterior lighting must be directed downward and glare must be contained within the facility site.

I. Trash receptacles must be provided in multiple locations throughout the facility and site. A regular trash patrol in the immediate vicinity of the site must be provided.

J. The number of toilets required for each facility will be determined by the director or Hearing Examiner on a case-by-case basis in consultation with the Whatcom County Health Department after a review of factors such as the potential number and composition of residents.

K. Residents and staff must comply with all Whatcom County Health Department requirements related to food donations.

L. The sponsor and/or managing agency shall ensure compliance with Washington State laws and regulations, the Bellingham Municipal Code (BMC), and Whatcom County Health Department regulations. The sponsor and/or managing agency shall permit inspections by local agencies and/or departments to ensure such compliance and shall implement all directives resulting therefrom within the specified time period.

M. The maximum number of off-street parking spaces required for each facility will be determined by the director or Hearing Examiner taking into consideration factors such as the potential number of residents and site constraints.

N. A description of transit, pedestrian and bicycle access from the subject site to services and schools must be provided.

O. All functions associated with the facility, including adequate waiting space, must take place within a building or on the site proposed to house the facility.

P. When applicable, interim housing facilities shall be subject to BMC 20.25, Design Review. The director or Hearing Examiner has the ability to address certain design elements through additional standards or to modify certain standards if warranted per the site context.

Q. An operations plan must be provided that addresses the following elements to the satisfaction of the City:

1. Rolls and responsibilities of key staff;
2. Site/facility management, including a security and emergency plan;
3. Site/facility maintenance;
4. Occupancy policies, including resident responsibilities and a code of conduct that includes, at a minimum, a prohibition on the on-site use or sale of alcohol and illegal drugs and threatening or unsafe behavior. The sponsor and/or managing agency shall ensure that items deemed as weapons are stored in a safe location;
5. Provision of human and social services, including staffing plan and outcome measures;
6. Outreach with surrounding property owners and residents and ongoing good neighbor policy; and
7. Procedures for maintaining accurate and complete records.

R. On-site supervision must be provided at all times, unless it can be demonstrated through the operations plan that this level of supervision is not warranted for the population being housed.

S. Sponsors and/or managing agencies shall have either a demonstrated experience providing similar services to people experiencing homelessness, and/or certifications or academic credentials in an applicable human service field, and/or applicable experience in a related program with people experiencing homelessness. Should a sponsor and/or managing agency not have any of the preceding qualifications, additional prescriptive measures may be required to minimize risk to both residents of the interim housing facility and the broader community.

T. No children under the age of 18 are allowed to stay overnight in interim housing, unless accompanied by a parent or guardian, or unless the facility is licensed to provide services to this population. If a child under the age of 18 without a parent or guardian present attempts to stay in a facility not specifically licensed for providing housing to youth, the sponsor and/or managing

agency shall immediately contact Child Protective Services and actively endeavor to find alternative housing for the child.

U. The sponsor and/or managing agency shall designate points of contact and provide contact information (24-hour accessible phone contact) to the patrol operations commander for the Bellingham Police Department (BPD). The names of the on-duty points of contact must be posted on site daily, and their contact information must be provided to the BPD as described above.

V. For health and safety reasons, the sponsor and/or managing agency shall take all reasonable and legal steps to obtain verifiable identification information, including full name and date of birth, from current and prospective residents, and shall keep a log containing this information.

W. People who are required to register as a sex offender are prohibited from the facility. Should the sponsor and/or managing agency become aware of a current or prospective facility resident who is an unregistered sex offender, it shall immediately contact the BPD. The sponsor and/or managing agency shall provide notice to prospective residents that the sponsor and/or managing agency will report any current or prospective resident who is an unregistered sex offender to the BPD. Managing agencies are not permitted to request a waiver from this requirement per section 20.15A.050.B of this chapter, unless they can demonstrate through the required operations plan that they have the experience and capacity needed to manage this population.

X. Should the sponsor and/or managing agency become aware of a current or prospective resident who has an active felony warrant, it shall follow set protocol (as approved by the BPD) for contacting the BPD and addressing these warrants. The sponsor and/or managing agency shall provide notice to prospective residents that it will report any current or prospective resident known to have an active felony warrant to the BPD.

Y. Managing agencies and the BPD shall establish requirements for appropriate access and coordination for the subject facility and its residents.

Z. The sponsor or managing agency shall coordinate with the Homeless Service Center for referrals to their program and with other providers of facilities and services for people experiencing homelessness to encourage access to all appropriate services for their residents.

20.15A.030 Permit required.

Establishment of interim housing requires approval of a Type I, Type II or Type III-A permit as described in this chapter and BMC Chapter 21.10 and compliance with all other applicable City regulations.

20.15A.040 Pre-application and application.

A. Prior to submittal of a Type II or Type III-A interim housing permit application, written notice and an opportunity for comment on the proposal must be provided to any licensed child care facility and the administration of any public or private elementary, middle, junior high or high school within 600 feet of the boundaries of the proposed site. The applicant shall attempt to modify the proposal to respond to comments from administrators of the childcare facilities and schools. This noticing requirement is in addition to the standard noticing requirements for Type II and Type III-A permits in BMC 21.10.

B. Permit applications for interim housing must be made on forms prescribed by the City.

C. Permit applications for Type I and Type II interim housing will be processed by the City without charge.

20.15A.050 Waivers, decision and appeal.

The director or Hearing Examiner shall have the authority to grant, grant with conditions or deny an application for interim housing under this chapter.

A. Because each interim housing facility has unique characteristics including, but not limited to, size, number of occupants and composition, the director or Hearing Examiner shall have the authority to impose conditions on the approval of an interim housing permit to ensure that the proposal meets the requirements of this chapter. Conditions, if imposed, must be intended to minimize nuisance-generating features such as noise, waste, air quality, traffic, physical hazards and other similar impacts that the facility may have on the area in which it is located. Conditions may also mitigate potentially adverse operational characteristics that may include, but are not limited to, direct intake of residents on site, daily check in of residents in order to secure a bed, lack of resident enrollment in a program operated by the on-site agency, or lack of available intensive case management for residents on site.

B. In cases where the application does not meet the provisions of this chapter or adequate mitigation may not be feasible or possible, the director or Hearing Examiner shall deny the application.

C. The director or Hearing Examiner may approve an interim housing permit that relaxes one or more of the standards in this chapter, except the table in section 20.15A.020, only when the applicant submits a description of the standard to be modified and demonstrates how the modification would result in a safe facility with minimal negative impacts to the host community under the specific circumstances of the application. In considering whether the modification should be granted, the director or Hearing Examiner shall first consider the effects on the health and safety of facility residents and the neighboring communities. Modifications will not be granted if their adverse impacts on residents of the shelter and/or neighboring communities will be greater than those without modification. The burden of proof is on the applicant.

D. The director's decision may be appealed to the hearing examiner as provided in BMC 21.10.250.

20.15A.060 Permit compliance.

For Type I and Type II interim housing permits, if a sponsor and/or managing agency fails to comply with the regulations of this chapter and conditions of approval, the director shall work with the applicant to achieve voluntary compliance. If voluntary compliance cannot be achieved, the director may close the facility until the sponsor and/or managing agency come into compliance with this chapter and the conditions of approval. Any such decision may be appealed to the Hearing Examiner in accordance with BMC 21.10.250.

20.15A.070 Exemptions.

A. Interim housing facilities are exempt from complying with the definition of "Family" as defined in the BMC.

B. The following uses are exempt from compliance with this chapter:

1. Confidential shelters as defined in the BMC;

2. Group homes as defined in the BMC;
3. Adult family homes as defined in the BMC; and
4. Existing interim housing facilities. Expansion of existing interim housing facilities must comply with the requirements of this chapter.

20.15A.080 Other code provisions.

The provisions of this chapter apply in addition to the provisions of any other code provision or ordinance. Where there is a conflict, this chapter applies.

BELLINGHAM PLANNING COMMISSION FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATIONS

INTERIM HOUSING

NOVEMBER 7, 2019

SUMMARY

Following the public hearing and deliberation on the Bellingham Municipal Code (BMC) amendments to establish regulations for interim housing, the Bellingham Planning Commission determined that the changes are consistent with and will implement the goals and policies of the Bellingham Comprehensive Plan and should be recommended for approval.

I. FINDINGS OF FACT

1. Proposal Description:

The broad range of tools and resources available to address homelessness and affordable housing at the local level includes regulatory changes to identify where interim housing (referred to as "long-term shelters" in some Planning Commission work sessions) for people experiencing homelessness is allowed and under what circumstances. As the Bellingham Municipal Code (BMC) does not currently specify where this use can be located, the draft ordinance includes a new chapter, BMC 20.15A, and amendments to other BMC chapters to establish regulations for interim housing. The draft ordinance doesn't identify specific sites for interim housing; rather, it establishes a process for siting these uses and includes zoning, health and safety regulations.

The draft ordinance defines interim housing as "...a facility of longer operational duration than a temporary shelter in a building or other permanent structure with overnight sleeping accommodations that includes a sponsor and managing agency, the primary purpose of which is to provide housing for those who are homeless-on-entry, whether generally or for specific populations including, but not limited to, youth, those with mental health challenges, families with young children, and seniors. Interim housing may include guests who use the facility for overnight accommodations on a daily, weekly, monthly, or multiple month basis."

Interim housing facilities would be allowed in certain zoning districts either administratively (Type I or Type II permit) or conditionally (Type III-A), depending on whether they are "smaller", "mid-range" or "larger" facilities. Facilities with less potential impact (smaller building, fewer guests, off-site referral system, etc.) would be allowed in more areas and with a less stringent permit review process than larger facilities with more guests. See the table below from the draft ordinance (11/7/19 version) for a snapshot of the type of facility allowed in each zoning district:

Interim Housing Type (1)	Residential Single	Residential Transition areas within Urban Villages	Institutional and Residential Multi	Commercial and Urban Villages	Public	Industrial
Smaller Interim Housing (up to 12 adults)	Type I	Type I	Type I	Type I	Type I	Type I
Mid-range Interim Housing (between 13 and 40 adults)	Type III-A	Type II	Type II	Type I	Type II	Type I
Larger Interim Housing (between 41 and 200 adults) (2)	Not Allowed	Type III-A	Type III-A	Type III-A	Type II	Type I

Notes for table:

(1) In determining the maximum number of people allowed at each individual site, the director or Hearing Examiner shall consider factors such as the size and location of the site, the surrounding land uses, and other contextual factors.

(2) Experienced managing agencies with programs that include multiple facilities serving varying populations of people experiencing homelessness may request a waiver from the maximum number of adults for a larger interim housing facility per 20.15A.050.8 of this chapter.

Unless otherwise noted, all facilities will be subject to a common set of standards such as a limit on the number of adult beds per square feet of floor area, an operations plan, a code of conduct, and points of contact. A managing agency may request a waiver from one or more of the standards in the chapter, except for those in the table above.

2. Background Information:

The Planning Commission met in five meetings prior to the public hearing to establish the regulatory framework for interim housing and review the draft ordinance. Public comment was taken at each of these meetings. Meeting materials for each meeting can be found by searching for the meeting date at <https://meetings.cob.org/>.

March 22, 2018: Planning Commission Briefing

On March 22, staff provided a brief presentation on the up-coming work sessions and public hearing on regulations for shelters for people experiencing homelessness.

April 26, 2018: Planning Commission Work Session

On April 26, the Planning Commission reviewed draft regulations for temporary and long-term shelters in permanent structures (later called "interim housing"). The Planning Commission provided staff with suggested changes to the regulations, as well as questions to research prior to the next work session.

June 7, 2018: Planning Commission Work Session

On June 7, staff provided answers to the Planning Commission's questions from the April work session and reviewed additional staff changes to draft regulations for temporary shelters

and interim housing. Topics covered include managing agencies, the code of conduct, RCW 35.21.915, definitions, and the operations plan. It was noted during the work session that, due to recent feedback from service providers, additional time was needed to further develop the regulations for interim housing. As such, a draft ordinance for temporary shelters would come before the Commission prior to a draft interim housing ordinance.

September 20, 2018: Planning Commission Work Session

On September 20, staff presented background information, supporting policies and a draft regulatory structure that included size limitations and permit processes for the three interim housing categories (smaller, mid-range and larger). Staff presented example scenarios to demonstrate the framework. The Planning Commission asked staff to research several questions and bring suggestions to the next work session.

October 18, 2018: Planning Commission Work Session

On October 18, staff presented a draft interim housing ordinance, which addressed questions and comments from the Planning Commission, including pre-application meetings, the operations plan, permitting requirements, design review, residential transition areas, dispersion, on-site supervision, and low-barrier shelters. The Planning Commission asked staff to make changes to the draft ordinance and bring it back for a public hearing.

January 31, 2019: Planning Commission Public Hearing

On January 31, 2019, the Planning Commission held a public hearing on the draft ordinance, which addressed Planning Commission's concerns from the prior work session. During the hearing and in writing, several social service agencies expressed concern about some of the draft requirements, especially those related to dispersion of facilities and cooperation with the Bellingham Police Department (BPD). Former Planning Commissioner Iris Maute-Gibson also submitted similar comments and questions. The Planning Commission directed staff to work with service providers to resolve outstanding issues. Since that time, staff has met in several small group meetings with these providers and, in coordination with the BPD and City legal staff, adjusted the draft ordinance in response to their concerns.

3. Public Comments:

Notice of the Planning Commission public hearing was mailed to neighborhood association representatives and other parties with an interest in this topic. Notice was also published in the Bellingham Herald at least 30 days prior to the hearing.

Each work session and the public hearing included an opportunity for public comment. Four written public comments were submitted on this topic prior to publication of the meeting packet for the November 7, 2019, work session. Comments included support for the draft ordinance and suggestions for creative approaches to serving people experiencing homelessness. All public comments are posted on the City's website and were distributed to the Planning Commission.

4. State Environmental Policy Act (SEPA) Determination:

A non-project SEPA Determination of Non-Significance (DNS) was issued on January 11, 2019. Notice was mailed to the appropriate agencies and published in the Bellingham Herald

and on the City's website. No public comments were submitted on the DNS prior to publication of the meeting packet.

5. Consistency with the Bellingham Comprehensive Plan:

The Bellingham Comprehensive Plan identifies the guiding principles and goals for decisions regarding changes to the City's land use and development code. The proposed amendments are consistent with and will implement the goals and policies of the comprehensive plan, particularly those related to providing shelter for people experiencing homelessness. Relevant goals and policies include the following:

Policy LU-27 Allow nonprofit homeless shelters outright in Industrial zones and conditionally in Commercial zones.

GOAL H-4 Support housing options for special needs populations.

Policy H-49 Support implementation of the Whatcom County Plan to End Homelessness.

Policy H-50 Continue to encourage and support the development of emergency, transitional and permanent supportive housing with appropriate on-site services for people with special needs and the homeless throughout the City and county. Moving people into permanent housing as quickly as possible should be a priority.

Policy H-51 Maintain an inventory and expand the city's supply of interim housing for target populations.

Policy H-52 Foster and support partnerships that have proven to be successful in reducing homelessness, preventing homelessness and assisting the chronically homeless with needed care.

II. CONCLUSIONS

Based on the staff report and information presented at the public hearing, the Planning Commission concludes:

1. The proposed amendments define interim housing in the BMC and permit this use in certain circumstances if requirements and standards are met.
2. The proposed amendments comply with and will implement the goals and policies of the Bellingham Comprehensive Plan.

III. RECOMMENDATIONS

After careful consideration of all public comments, the staff report, other meeting materials, and the Findings and Conclusions, the Planning Commission recommends, with a 6-0 vote, that the City Council approve the proposed amendments to the BMC as shown in the draft ordinance.

ADOPTED this 7th day of November, 2019.



Planning Commission Chairperson

ATTEST: *Heather Aven*

Recording Secretary

APPROVED AS TO FORM:


City Attorney